



## **Request for City Council Committee Action From the Department of Public Works**

**Date:** November 17, 2003  
**To:** Honorable Sandra Colvin Roy, Chair Transportation & Public Works Committee  
**Referral to:** Honorable Barb Johnson, Chair Ways & Means Committee

**Subject:** **Downtown Circulator Bus Purchase Contract with Metropolitan Council**

**Recommendation:** **Rescind Approval of Amendment #1 to Contract No. 98-020 with Metropolitan Council and authorize proper City Officers to execute Amendment #2**

**Previous Directives:** Council Approval of Contract No. 98-020 on June 2, 1999 and Amendment #1 on October 25, 2002.

**Prepared by:** Robert Morgan, P.E., Transportation and Parking Services, 673-3610

**Approved by:**

\_\_\_\_\_  
Klara A. Fabry, P.E., City Engineer, Director of Public Works

**Presenters:** Robert Morgan, P.E., Transportation and Parking Services

### **Financial Impact** (Check those that apply)

☒ **No financial impact - or - Action is within current department budget.**  
(If checked, go directly to Background/Supporting Information)

☐ Action requires an appropriation increase to the Capital Budget

☐ Action requires an appropriation increase to the Operating Budget

☐ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☐ Other financial impact (Explain):

☒ Request provided to the Budget Office when provided to the Committee Coordinator

### **Background/Supporting Information:**

The City Council approved Contract No. 98-020 with the Metropolitan Council for procurement and operation of buses on June 2, 1999. This contract was for purchase of five hybrid diesel-electric buses utilizing funds from the Nicollet Mall Shuttle Grant previously awarded to the City.

The City Council approved Amendment #1 to this Contract on October 25, 2002. This Amendment reduced the number of hybrid diesel-electric buses from five to three; added five ultra low sulfur fueled buses; and increased the funding for bus purchase.

Amendment #1 also included language that the Met Council would “establish operating funds” and operate these buses as Downtown Circulator buses. This Amendment was executed by the City and transmitted to the Met Council on November 18, 2002. It has not been executed by the Met Council. The Met Council has no objection to this language so long as funds are available to operate the Downtown Circulator. However, the Federal Transit Administration requires that federally funded buses operate a minimum of 12 years. If during this 12-year period, Circulator funding became unavailable, the Met Council does not want to be contractually bound to continue to operate the buses as Downtown Circulator buses.

It was never staff’s intent to bind the Met Council in this manner. Accordingly, we recommend that approval of Amendment #1 be rescinded and that a new Amendment #2 addressing these issues be adopted.

Attachment – Amendment #2

C:     Ed Backstrom, Ass’t City Attorney  
       Mike Setzer, Metro Transit General Manager

TPW bus purchase contract mc amend#2 rev.doc

**AMENDMENT #2**  
**JOINT POWERS AGREEMENT BETWEEN THE METROPOLITAN COUNCIL AND**  
**THE CITY OF MINNEAPOLIS FOR PROCUREMENT OF BUSES**

**THIS AGREEMENT** is entered into by **THE METROPOLITAN COUNCIL** (“the Council”), and **THE CITY OF MINNEAPOLIS**, (“the City”).

**WHEREAS**, the City and the Council wish to modify this joint powers agreement in order to advance the Downtown Circulator project; and

**WHEREAS**, the Federal Transit Administration (“FTA”) grant (FTA Grant Number MN-03-0045) to the City that awarded funding for the procurement of alternative fuel or experimental buses to be operated on the Nicollet Mall is active and expenditures are still authorized for this use; and

**WHEREAS**, the Council is authorized by Minnesota Statutes sections 473.129 and 473.405 to equip and operate public transit systems and to exercise all powers which may be necessary or convenient to discharge its duties; and

**WHEREAS**, the City and the Council will enter into a separate Operations Agreement for the Downtown Circulator.

**NOW, THEREFORE**, in consideration of the mutual promises contained in this agreement, the parties agree to amend the original agreement as follows:

**I. VEHICLE PROCUREMENT**

Paragraph 1.01 will be deleted and replaced as follows:

**1.01 Vehicle Procurement Process.** The Council will conduct the procurement process for three (3) low-floor, hybrid diesel/electric buses and five (5) low floor, ultra low-sulfur burning diesels (“the Vehicles”). All FTA regulations applicable to the receipt of Section 5309 funds under CFDA 20.500 shall be adhered to by the Council and it will conduct the procurement process using Council procedures and in conformance with FTA requirements and Minnesota law.

Paragraph 1.02 will be deleted and replaced as follows:

**1.02 Payment Process.** The Council will invoice the City once the Council has received, inspected, and accepted each vehicle into service. An invoice reflecting allowable expenses incurred by the Council shall include the cost of the bus supported by a copy of the vendor invoice; the cost of bus inspections by both third party and Council staff; and Council staff travel to vendor for required inspections; and spare parts. The invoice shall be submitted to:

City of Minneapolis  
Attn: Mr. Robert Morgan  
Project Manager  
City of Minneapolis  
Room 233 City Hall  
Minneapolis, MN 55415

Paragraph 1.03, 1.04 and 1.05 shall be added as follows:

- 1.03** The total amount of this agreement is increased to \$3,600,000. The City shall reimburse 80% of the total amount from FTA Grant MN-03-0045 for a total sum not to exceed \$2,880,000. The Council will be responsible for contributing the 20% to meet match requirements for a total sum not to exceed \$720,000.
- 1.04** The Council shall submit to the City a Final Report of expenditures not later than 90 days after the end of this agreement. The Council shall keep all records associated with this agreement for a period of not less than six (6) years and shall allow FTA and City officials access to records for this agreement.
- 1.05** This agreement shall be effective upon execution of this amendment and remain in effect until the bus procurement process is complete.

Article II. will be deleted and replaced as follows:

**II. OWNERSHIP AND OPERATION OF THE VEHICLES**

The Council will receive title of the vehicles purchased under this agreement directly from the manufacturer and will maintain and operate the buses as part of the regional transit fleet. The Council shall operate the buses purchased under this Contract as Downtown Circulator buses serving the Minneapolis Convention Center, the LRT Station on 5<sup>th</sup> Street at the Nicollet Mall and such other Downtown facilities as the parties may agree so long as the Circulator remains funded. The Council shall continue to operate these buses as Downtown Circulator buses under the terms of an Operations Agreement to be executed between the Parties. If funding for Circulator operation becomes unavailable during the life of these buses, the Council agrees to place the Vehicles into regular route service primarily on routes providing service to the Nicollet Mall in downtown Minneapolis. The disposition of any vehicles will adhere to FTA regulations.

**IN WITNESS WHEREOF**, the parties have caused this agreement to be executed by their duly authorized representatives.

**METROPOLITAN COUNCIL**

**CITY OF MINNEAPOLIS**

By: \_\_\_\_\_ By \_\_\_\_\_  
Thomas H. Weaver Mayor  
Regional Administrator

Date: \_\_\_\_\_ Attest \_\_\_\_\_  
City Clerk

Countersigned \_\_\_\_\_  
Finance Officer

Approved as to form:

Approved as to form and execution:

\_\_\_\_\_  
Office of General Counsel

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Klara A. Fabry, P.E.,  
City Engineer, Director of Public Works

**Lobbying Restriction Certification**

I, Thomas H. Weaver, Regional Administrator, hereby certify on behalf of

(Printed name and title of authorized official)

the Metropolitan Council, that:

(Recipient Name)

- a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federally funded contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Authorized Official)

Attest: \_\_\_\_\_  
Regional Administrator

APPENDIX B TO 49 CFR PART 20 - DISCLOSURE FORM TO REPORT LOBBYING

**DISCLOSURE OF LOBBYING ACTIVITIES**

Approved by OMB

**Lobbying Disclosure Form LLL**

0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a) contract b) grant c) cooperative agreement d) loan e) loan guarantee f) loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a) bid/offer/application b) initial award c) post-award	<b>3. Report Type:</b> <input type="checkbox"/> a) initial filing b) material change  <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b>  <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known:		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known:
<b>6. Federal Department/Agency:</b>		<b>7. Federal Program Name/Description:</b>  CFDA # if applicable _____
<b>8. Federal Action Number, if known:</b>		<b>9. Award Amount, if known:</b>
<b>10. a. Name and Address of Lobbying Entity:</b>    <p align="center">(attach Continuation Sheet(s) SF-LLL-A if necessary)</p>		<b>b. Individuals Performing Services (including address if different from No. 10a)</b>    
<b>11. Amount of Payment (check all that apply):</b>  \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>12. Form of Payment (check all that apply)</b>  <input type="checkbox"/> Cash <input type="checkbox"/> in-kind; specify: nature _____ value _____	
<b>13. Type of Payment (check all that apply):</b> <input type="checkbox"/> retainer <input type="checkbox"/> one-time fee <input type="checkbox"/> commission <input type="checkbox"/> contingent fee <input type="checkbox"/> deferred <input type="checkbox"/> other; specify: _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s), contacted for Payment Indicated in Item 11:</b>   <p align="center">(attach Continuation Sheet(s) SF-LLL-A if necessary)</p>		
<b>15. Continuation Sheet(s) SF-LLL-A attached:</b> <input type="checkbox"/> yes		<input type="checkbox"/> no
<b>16. Information requested through this form is authorized by Title 31, U.S. C. Section 1352. This disclosure of lobbying activities is a material representation of fact</b>		<b>Signature:</b> _____ <b>Print Name:</b> _____

upon which  
reliance was placed by the tier above when this  
transaction was  
made or entered into. This disclosure is required  
pursuant  
to 31 U.S.C. 1352. This information will be reported to the  
Congress semi-annually and will be available for public  
inspection. Any person who fails to file the required  
disclosure  
shall be subject to a civil penalty of not less than \$10,000  
and  
not more than \$100,000 for each such failure

Title: \_\_\_\_\_

Telephone No: \_\_\_\_\_

Date: \_\_\_\_\_



## Office of the Secretary of Transportation

## 49 CFR Part 20, App. B

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if know. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where has been an award or loan, commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a).  
Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid to reasonable expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and review the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

**DISCLOSURE OF LOBBYING ACTIVITIES** Approved by OMB  
0348-0046  
Continuation Sheet

